



## APPENDIX.

### Code of Virginia 1936—Section 5268.

“When bastards take; when children of former slaves take.—Bastards shall be capable of inheriting and transmitting inheritance on the part of their mother as if lawfully begotten. And the children of parents, one or both of whom were slaves at and during the period of cohabitation, and who were recognized by the father as his children, and whose mother was recognized by such father as his wife, and was cohabited with as such, and their descendants, shall be as capable of inheriting any estate whereof such father may have died seized or possessed, or to which he was entitled, as though such children had been born in lawful wedlock.”

### Code of Virginia 1936—Section 5269.

“When marriage legitimates children.—If a man, having had a child or children by a woman, shall afterwards intermarry with her, such child or children, or their descendants, if recognized by him before or after marriage, shall be deemed legitimate.”

It is clear that Section 5268 (*supra*) does not apply. But the point to be observed there is that the section recognizes the status of a bastard or illegitimate, and does not purport to legitimate, but simply states the circumstances under which the illegitimate child shall take.

Nor does section 5269 apply to the facts of the case at bar, for the reason that in the case at bar the void marriage took place before the birth of the child. The opinion of the Virginia Court in the case at bar does not hold that Section 5269 has any application. It is interesting to note the difference between the language of Section 5270, “*shall nevertheless be legitimate*,” and the language of Section 5269, “*shall be deemed legitimate*.”

For a discussion of the effect of statutes similar to Section 5269, see,

Minor on Conflict of Laws, Section 99, page 217.

Beale on Conflict of Laws, Section 139.2 page 708, and  
Section 140.1 page 711.

Restatement, Conflict of Laws, Section 140 p. 207.

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